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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,709	12/06/2006	Heiner Kudrus	KUDRUS-2 PCT	3651
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COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER SINGH, KAVEL	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/594,709	<b>Applicant(s)</b> KUDRUS, HEINER	
	<b>Examiner</b> KAVEL P. SINGH	<b>Art Unit</b> 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 12/08/08 have been fully considered but they are not persuasive. Regarding claims 1 and 24, Applicant argues that Council does not teach at least one of the chain carriers is displaceable in a frame absorbing press-on forces between the tool chains. Council teaches a first continuous gripper chain with gripper members for movement along a first path and a second continuous chain with gripper members for movement along a second path. Means is provided for moving the gripper chains together along the two paths for gripping and moving a tube (C3 L23-30). In order to move the tube between the two chains, an absorbing press-on forces must be applied between the two chains with the tube meshed between in order to move the tube along the frame (Fig. 2). Any press-on forces produced by the tool chains (243,245P) will be absorbed by the frame (31,37) since it is the frame that supports the tool chains and therefore is sturdy enough to maintain the structure of the apparatus and allow the article to be conveyed. Since there are no deficiencies to claims 1 and 24 to the primary reference of Council, the arguments to Haugwitz and Perrella are moot since those references were used to teach the dependant claims. For the foregoing reasons, claims 1-30 stand rejected.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3651

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10,13,14,16-18,21, and 24-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Council U.S. Patent No. 5,775,417.

Claims 1 and 24, Council teaches an apparatus and method for a first chain carrier and a second chain carrier (assemblies shown in Fig. 2), the first tool chain (243,245P) and the second tool chain (243, 245P) forming a drawing plane in which the workpiece to be drawn is caused to move, wherein the first chain carrier, the second chain carrier, the first tool chain (243,245P), and the second tool chain (243,245P) are disposed in the drawing plane (Fig. 2) and at least one of the chain carriers (243,245P) being displaceable in a frame (31,37) absorbing press-on forces between the tool chains (243,245P), wherein a first frame half is disposed on a first side of the drawing plane and a second frame half on a second side of the drawing plane (Fig. 2), and the first frame half and the second frame half are configured to be symmetrical in the region opposing the press-on forces (Fig. 2), at least one of the chain carriers (243,245P) being displaceable in a frame (31,37) absorbing the press-on forces between the tool chains (343,345P), the frame (31,37) comprising a first frame half disposed on a first side of the drawing plane and a second frame half disposed on a second side of the drawing plane, wherein the first frame half and the second frame half are configured to be symmetrical in the region opposing the press-on forces (Claim 1).

Claim 2, Council teaches the frame (31,37) is configured to be substantially symmetrical (Fig. 2).

Claims 3 and 29, Council teaches the frame (31,37) carries the two chain carriers

Art Unit: 3651

(243,245P).

Claims 4 and 30, Council teaches the frame (31,37) is standing on a base (23,25) or the floor (Fig. 1).

Claim 5, Council teaches first chain wheels (231,233) for guiding the first tool chain (243,245P) are disposed on the first chain carrier (Fig. 2).

Claim 6, Council teaches second chain wheels (231,233) for guiding a second tool chain (243,245O) are disposed on the second chain carrier (Fig. 2).

Claims 7,9,10, and 25, Council teaches neutralizing press-on forces within the frame (31,37) so that first press-on forces, which are applied to a first press-on plane side and teaches second press-on forces, which are applied to a second press-on plane side, are neutralizing each other within said frame (31,37) (C5 L50-55).

Claims 8 and 16, Council teaches neutralizing press-on forces are configured to be symmetrical with respect to a drawing plane and/or with respect to a press-on plane (C5 L50-55).

Claims 13 and 14, Council teaches the caterpillar conveyor comprises a gantry that carries adjusting means (281) for at least one of the two chain carriers (Fig. 2), said adjusting means (281) being substantially disposed in the drawing plane (C5 L58-62).

Claim 17, Council teaches the frame (31,37) and a gantry for holding the adjusting means (283) for chain carriers are identical (Fig. 2).

Claim 18, Council teaches the two frame halves are joined together by means of connecting means (Fig. 1).

Art Unit: 3651

Claim 21, Council teaches the drawing die is disposed on the frame (31,37) with symmetrically formed supporting means (23,25) so that forces acting onto the drawing die are introduced substantially symmetrically into the two frame halves (Fig. 1).

Claim 26, Council teaches at least one chain carrier is aligned with respect to the linear workpiece, the at least one chain carrier being retained in the drawing plane by at least one adjusting means (281), and is moved and aligned in the drawing plane with respect to the linear workpiece to be drawn (C5 L58-62).

Claim 27, Council teaches a frame (31,37) or gantry opposes press-on forces needed for drawing the workpiece symmetrically with respect to the drawing plane (C3 L30-35).

Claim 28, Council teaches the frame or gantry (31,37) receives press-on forces between the tool chains (243,245P).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11,12,19,20,22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Council U.S. Patent No. 5,775,417 in view of Haugwitz U.S. Patent No. 3,144,949.

Claims 11,12, and 19, Council teaches forces applied for drawing the workpiece are distributed between the frame halves (18a,18b), symmetrically with respect to the

Art Unit: 3651

drawing plane, but Haugwitz teaches a force splitter (37',37'') by means of which press-on forces (C4 L20-23). It would have been obvious to one of ordinary skill in the art at the time of the invention to use force splitter as taught by Haugwitz into the invention of Council in order to ease the tension on the workpiece.

Claims 20,22 and 23, Council teaches a connecting means for the first chain carrier (34) provided between the frame halves (18a,18b) and a connecting means for the second chain carrier (48a) provided between the frame halves (18a,18b), but Haugwitz teaches the supporting means include at least one cross-tie (50) having a component departing from the drawing die and leading toward the frame (12), away from the drawing path. It would have been obvious to one of ordinary skill in the art at the time of the invention to use force splitter as taught by Haugwitz into the invention of Council in order to ease the tension on the workpiece.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Council U.S.

Patent No. 5,775,417 in view of Perrella U.S. Patent No. 4,360,054.

Claim 15, Council teaches the adjusting means (80a,80b) comprise at least one cylinder (90) for adjusting the chain carriers (34,44), but does not teach as Perrella teaches a hydraulic cylinder (410). It would have been obvious to one of ordinary skill in the art at the time of the invention to use a hydraulic cylinder as taught by Perrella into the invention of Council in order to ensure the adjustment means will move without jamming.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Kavel P. Singh whose telephone number is (571) 272-2362. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KPS

/Gene Crawford/  
Supervisory Patent Examiner, Art  
Unit 3651